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April 3, 2015

**BY ECF**

Hon. J. Paul Oetken  
United States District Judge  
Southern District of New York  
40 Foley Square, Room 2101  
New York, New York 10007

Re: **SEC v. One or More Unknown Traders in the Securities of Onyx  
Pharmaceuticals, Inc., 13 Civ. 4645 (JPO)**

Dear Judge Oetken:

We represent defendants Dhia Jafar and Omar Nabulsi, in the above-mentioned action. We write concerning Defendants' Motion for Reconsideration of the Court's September 29, 2014 Opinion and Order, in which they have asked the Court to reconsider its prior order denying Defendants' motion to dismiss the Amended Complaint in light of the Second Circuit's December 10, 2014 decision in United States v. Newman, et al. (Nos. 13-1837-cr, 13-1917-cr).

In its brief in opposition to the motion for reconsideration, the SEC argued that Newman cannot be considered a change in intervening law (and therefore is not a proper basis for reconsideration) because Newman was not yet final while the government's petition for rehearing was pending. (See Opp. Br., Docket Entry No. 93, at 5 n.2). As Your Honor may have seen, earlier today, the Second Circuit denied the government's petition for rehearing.<sup>1</sup> Consequently, the Court may now disregard the contention that Newman could not be considered a change in intervening law while the government's petition for rehearing was pending.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Patrick J. Smith', written over a horizontal line.

Patrick J. Smith

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<sup>1</sup> A copy of the Second Circuit's Order is enclosed for the Court's convenience.



Hon. J. Paul Oetken  
April 3, 2015  
Page 2

Enclosure

Cc: John W. Berry, Esq. (By ECF & email)  
John B. Bulgozdy, Esq. (By ECF & email)  
Donald W. Searles, Esq. (By ECF & email)

**UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT**

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At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 3rd day of April, two thousand fifteen.

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United States of America,

*Appellee,*

v.

Todd Newman, Anthony Chiasson,

*Defendants-Appellants.*

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**ORDER**

Docket Nos. 13-1837(L)  
13-1917(Con)


The United States of America has filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

For the Court:

Catherine O'Hagan Wolfe,  
Clerk of Court

Catherine O'Hagan Wolfe

The seal of the United States Court of Appeals for the Second Circuit is circular. It features a blue outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in white on a blue background, flanked by two small white stars.